

Expedited Bill No. 10-05
Concerning: Property Tax - Deferral
Revised: June 14, 2005 Draft No. 4
Introduced: April 19, 2005
Enacted: June 14, 2005
Executive: June 24, 2005
Effective: July 1, 2005
Sunset Date: None
Ch. 6, Laws of Mont. Co. 2005

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Leventhal

AN EXPEDITED ACT to:

- (1) modify the amount of certain residential real property taxes for which payment may be deferred;
- (2) revise the income limits and interest rates that apply to deferred property taxes; [[and]]
- (3) require the Director of Finance to record certain documents in the County's land records;
- (4) repeal language that requires a property owner to pay certain recording fees;
- (5) define certain terms; and
- (6) update and generally amend the law regarding deferral of County property taxes.

By amending

Montgomery County Code
Chapter 52, Taxation
Section 52-18F

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Section 52-18F is amended as follows:

52-18F. Residential real property tax deferral-General.

(a) Definitions. In this Section the following words have the meanings indicated:

(1) “Director” means the Director of the Department of Finance.

(2) “Legal interest” has the meaning stated in Section 9-104 of the Tax-Property Article of the Maryland Code.

(3) “Owner” means an individual who has a legal interest in residential real property.

(b) Authorization; Amount of Deferral. [For taxable year beginning July 1, 1990, and thereafter, a] ~~[[A property]]~~ An owner may defer payment of County property taxes due on residential real property occupied by the owner as the owner's principal residence if the owner meets the requirements of this Section. The amount of taxes that may be deferred for any one year is the amount that County taxes due exceeds the amount of County property taxes paid in the prior taxable year[, adjusted by any change in the Consumer Price Index for All Urban Consumers in the Washington Metropolitan Area from March of the previous year to March of the current year].

~~[[b)]]~~ (c) Program Eligibility. An owner is eligible for a payment deferral under this Section if:

(1) the gross income or combined gross income of all ~~[[owners, and all]]~~ individuals who actually reside in the dwelling (except a dependent under Section 152 of the Internal Revenue Code or a person who pays reasonable fixed charges for rent or room and board), did not exceed \$[60,000] 120,000 for the calendar year that immediately precedes the taxable year for which the deferral

is sought; and

- (2) the owner, or at least one of the owners, has resided in the dwelling as that person's principal place of residence for 5 consecutive years and continues to occupy the property for that purpose.

For purposes of income determination under paragraph (1), and to the extent consistent with this Section, gross income or combined gross income must be calculated in accordance with Section 9-104 of the Tax-Property Article of the Maryland Code. [Until executive regulations are adopted under subsection (p), the Director of Finance may use the adopted regulations of the State Department of Assessments and Taxation for Section 9-104.]

[(c)] (d) *Eligible Residential Property*. [[The residential property subject to a payment deferral must be owned by the taxpayer in fee simple.]] The amount of the property eligible for a deferral is limited to the real property on which the residence is located, the curtilage, as determined by the Supervisor of Assessments, and any adjacent unimproved land on the same lot or parcel that is not assessed on the basis of agricultural use. A deferral must not be granted for taxes attributable to any improvement to the property that was not reflected in the assessment used for the base year for which taxes were paid to determine the amount of tax deferral under subsection [(a)] (b).

[(d)] (e) *Eligible Taxes*. County real property taxes that are eligible for deferral are the general County tax and, where applicable, special service area taxes

[(e)] (f) *Interest*. Interest accrues on the deferred taxes at [the rate of 9% per year] a rate set annually by the Director [[of Finance]] that does not

55 exceed the prime lending rate generally available [[at that time]] on June
 56 1 of the preceding fiscal year. The regulations adopted under subsection
 57 (q) must specify the source or sources that the Director must use to
 58 calculate the prime rate generally available on June 1 of each year. The
 59 annual interest rate set by the Director applies to any tax deferred that
 60 year, regardless of the year when the tax was first deferred.

61 [[(f)] (g) *Annual Tax Bills.* The cumulative amount of the payment deferral
 62 and accrued interest must be specified in the taxpayer's annual property
 63 tax bill. The Director [[of Finance]] must record the amount of that
 64 deferral in the County tax records.

65 [[(g)] (h) *[Limitations] Limits on Deferrals.* The accumulation of deferred
 66 taxes and accrued interest must not exceed 50 percent of the full cash
 67 value of the property, as determined by the Supervisor of Assessments,
 68 or a lesser amount elected by the taxpayer and specified in the
 69 agreement required under subsection [[(k)] (l)]. When the maximum
 70 amounts have been reached, those amounts may continue to be deferred
 71 until any of the events specified in subsection [[(j)] (k)] occur. An
 72 owner [receiving] who receives a tax deferral under this Section [may]
 73 must not also receive a tax deferral under Section 52-18C [for
 74 rezonings].

75 [[(h)] (i) *Penalties.* A penalty must not be charged during the period of the
 76 deferral on any taxes deferred under this Section.

77 [[(i)] (j) *Liens.* All taxes deferred and interest accrued on the taxes are a first
 78 lien on the property, with the priority of real property taxes, until paid or
 79 otherwise extinguished by operation of law. The deferred taxes and
 80 accrued interest are collectible by suit or by tax sale, regardless of any
 81 period of limitations imposed under law. In the event of tax sale for

nonpayment of taxes, the property must be sold for all unpaid taxes and interest, including deferred taxes and interest. In addition to being a first lien on the property, the deferred taxes and accrued interest constitutes a personal liability of the person or persons who owned the property immediately before the occurrence of any ~~[[of the events]]~~ event specified in subsection ~~[[j)]]~~ (k).

~~[[j)]]~~ (k) *Events Accelerating Payment.* Except as otherwise provided in this subsection, all deferred taxes and accrued interest ~~[[becomes]]~~ become due and payable if:

- (1) ~~[[a person deferring taxes, including any joint owner, ceases to own the property in fee simple through sale or other transfer of the property]]~~ ownership of the property is transferred;
- (2) an owner no longer occupies the property as ~~[their]~~ that person's principal residence;
- (3) the property becomes subject to tax sale; or
- (4) the use of the property changes.

However, the property tax deferral remains available to a surviving spouse, or to a spouse or former spouse in possession of the residence under a written separation agreement or divorce decree, for amounts previously deferred. A spouse or former spouse may continue to defer taxes if that person is otherwise eligible under subsection ~~[[b)]]~~ (c).

~~[[k)]]~~ (l) *Applications; Agreement with Director of Finance.* An application for a tax deferral under this Section must be submitted to the Director ~~[[of Finance]]~~ no later than September 1 of the tax year in which the taxpayer seeks to obtain a tax deferral, or any other date established by ~~[executive]~~ regulations. An eligible owner may receive a refund, without interest, for deferrable taxes paid for the first tax year.

Applications must be on forms acceptable to the Director and must be sworn to as true by the owner or each joint owner. The Director may request information to verify eligibility under this Section, including income tax records, and may require a certification by the applicant of all joint owners, persons having an equitable interest in the property, and parties having a secured interest in the property. If the applicant is eligible, the Director or the Director's designee[,] must execute a written agreement with the owner or each joint owner before a tax deferral can be made. The agreement must reflect the terms and conditions of the deferral, including notice of the lien. The agreement may provide for repayment of the deferred taxes and accrued interest in installments if the owner ceases to occupy the property as that owner's principal residence but maintains ownership. Interest must be assessed at the rate specified under subsection [(e)] (f). [[The agreement must be recorded in the land records of the County at the owner's expense. Notice of termination of the deferral must also be recorded in the land records by the County at the owner's expense.]] The Director must record the written agreement in the County's land records. The agreement must include a conspicuous statement that indicates it is being recorded by or on behalf of the County.

[(1)] (m) *Notification of Secured Parties.* The Director [[of Finance]] must notify all mortgagees or beneficiaries under any deed of trust of a payment deferral under this Section and of the amount of tax to be deferred. In [making its notification] selecting who to notify, the Director may rely on any certification made by the taxpayer under subsection [(k)] (l). Notification must also be given when participation in the payment deferral program terminates.

136 ~~[(m)]~~ (n) *Program Withdrawal.* A taxpayer may terminate the deferral at
 137 any time by giving written notice to the director and paying all deferred
 138 taxes and accrued interest. If a taxpayer terminates a deferral, the
 139 Director must record a notice of a termination of deferral in the
 140 County's land records. The notice must include a conspicuous
 141 statement that indicates it is being recorded by or on behalf of the
 142 County.

143 ~~[(n)]~~ (o) *Penalties for False or Fraudulent Information.* A person who
 144 knowingly submits a false or fraudulent application[,], or statement, or
 145 withholds information, in order to obtain a deferral under this Section
 146 ~~[(is guilty of)]~~ has committed a class A violation. In addition, the
 147 person is liable for and must repay to the County deferred taxes and
 148 accrued interest and penalties applicable to overdue taxes. The County
 149 may enforce this subsection by appropriate judicial action. A person
 150 who violates this Section is liable for all court costs and expenses of the
 151 County in a civil action.

152 ~~[(o)]~~ (p) *Appeals.* Any owner aggrieved by a decision of the Director ~~[(of~~
 153 Finance]] under this Section may appeal to the Maryland Tax Court.
 154 An appeal must be filed within 30 days after the owner receives written
 155 notice of the decision from the Director.

156 ~~[(p)]~~ (q) *Regulations.* The County Executive ~~[(may)]~~ must adopt regulations
 157 under method (2) [for the administration of] to administer this tax
 158 deferral program.

159 ~~[(q)]~~ (r) *Annual Report.* The Director ~~[(of Finance)]~~ must provide an annual
 160 report to the County Council by January 1 of each year that describes
 161 the extent of program participation, aggregate amounts of taxes
 162 deferred, interest accrued, administrative costs, and other relevant

163 information.

164 **Sec. 2. Expedited Effective Date.**

165 The Council declares that this legislation is necessary for the immediate
166 protection of the public interest. This Act takes effect on July 1, 2005, and applies to
167 any tax year that begins on or after that date.

168 *Approved:*

169

Thomas E. Perez, President, County Council

Date

170 *Approved:*

171

Douglas M. Duncan, County Executive

Date

172 *This is a correct copy of Council action.*

173

Linda M. Lauer, Clerk of the Council

Date